

REMARKS

This is in response to the Office Action mailed on November 8, 2004, and the references cited therewith.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1-27 are now pending in this application.

Rejection of the Claims under §102 and §103

Claims 1-27 were rejected under 35 USC § 102(b) as being anticipated by an archived version of the eBay.com website (hereinafter “eBay”). In the alternative, claims 1-27 were rejected under 35 USC 103(a) as being obvious over eBay.

Discussion of Independent Claim 1

The Office Action does not point to any part of “eBay” that teaches or suggests “facilitating submission of a complaint ... facilitating a resolution of the complaint... and updating a record ... if the complaint is not resolved, the record indicating a count of failed transactions related to the party.” Instant Application at Claim 1. The Office Action asserts that “eBay” discloses

“a network-based facility (see enclosed website/page) that contains a bidding/purchase satisfaction index. This index ranges from 0% to 100% based on past purchasing, bidding, selling, and payment of the party. Further, eBay has a mechanism in place, which is reachable via either email or telephone to allow for arbitration and refund to an injured specific party if specific purchasing/bidding criteria is not followed. Further, eBay provides for reporting and suspense of ones ability to use the facility under given circumstances.”

In this assertion, the Office Action refers to at least two different concepts. The first concepts relates a “satisfaction index,” while the second system relates to “a mechanism to allow for arbitration and refund.

The Office Action seems to mischaracterize the “satisfaction index,” as Applicants cannot find anything in eBay that discloses “bidding/purchase satisfaction index” that “ranges from 0% to 100%.” If the Office Action is referring to “Feedback

Ratings” (see <http://web.archive.org/web/19991122070012/pages.ebay.com/services/forum/feedback.html>), Feedback Ratings do not range from 0% to 100%. In contrast, the Feedback Ratings allow parties to a transaction to leave feedback comments about other parties involved in that transaction. According to eBay, a user receives “+1 point for each positive comment,” “0 points for each neutral comment,” and “-1 point for each negative comment.” *Id.* If the Office Action views “negative feedback” as teaching the claimed “complaint,” the Office Action does not specify where eBay teaches or suggests “facilitating a resolution of the complaint.” Additionally, the Office Action does not specify where eBay’s Feedback Ratings teach or suggest “updating a record associated with the party if the complaint is not resolved.” In contrast, according to eBay, after users enter feedback into the system, the feedback cannot be rescinded or modified.¹

eBay’s mechanism for arbitration and refund does not teach or suggest the features recited in claim 1. Instead, eBay describes a “Safe Harbor” customer support system which investigates various offenses (e.g., bidding, selling, and feedback fraud) and works with an online Ombuds Office. See <http://web.archive.org/web/19991012194555/pages.ebay.com/services/safeharbor/safeharbor-proc.html> and see <http://web.archive.org/web/19991012194555/pages.ebay.com/services/safeharbor/safeharbor-proc.html>. Even if information submitted to Safe Harbor were a “complaint,” the Office Action does not point to any part of eBay that teaches “updating a record associated with the party if the complaint is not resolved, the record indicating a count of failed transactions related to the party.” (Emphasis added.)

For at least the reasons discussed above, Applicants respectfully submit that the eBay website does not teach or suggest each and every element of independent claim 1.

Discussion of Independent Claims 8, 15, and 21

Independent claims 8, 15, and 21 each include features similar to those noted in the discussion of independent claim 1. For at least the reasons discussed above, Applicants

¹ “Q. Can I retract the feedback I left for someone? A. No. It’s a good idea to be thoughtful of what you say when it comes to leaving feedback.” <http://web.archive.org/web/19991122031437/http://pages.ebay.com/help/basics/f-feedback.html#5>

respectfully submit that the eBay website does not teach or suggest each and every element of independent claims 8, 15, and 21.

Discussion of Dependent Claims 2-7, 9-14, 16-20, and 22-27

Dependent claims 2-7, 9-14, 16-20, and 22-27 each depend directly or indirectly on one of independent claims 1, 8, 15, or 21. For at least the reasons discussed above, Applicants respectfully submit that the eBay website does not teach or suggest each and every element of dependent claims 2-7, 9-14, 16-20, and 22-27.

Request for Examiner Interview

Applicants request an interview with the Examiner before any additional action is taken on this patent application. Please contact Applicants' representative, Andrew DeLizio, at 281-213-8980.

Reservation of Rights

Applicants do not admit that documents cited under 35 U.S.C. §§ 102(a), 102(e), 103/102(a), or 103/102(e) are prior art, and reserve the right to swear behind them at a later date. Arguments presented to distinguish such documents should not be construed as admissions that the documents are prior art. Furthermore, Applicants do not acquiesce to any of the Examiner's assertions about the claims or the cited references and reserves the right to argue these assertions in the future.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 281-213-8980 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

LOU LEONARDO ET AL.

By their Representatives,

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Date 2/08/05

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 8 day of February, 2005.

Peter Rebuffoni

Name

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Signature